

## **Issues Concerning the Management of the Parallel Fisheries in the Gulf of Alaska Groundfish Fisheries.**

NMFS Alaska Region Staff  
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North Pacific Fishery Management Council Meeting

### **Overview**

Management of the Federal total allowable catch (TAC) within State waters (from the baseline to 3 miles from shore) is complicated by the different regulations that apply within Federal and State waters. The "parallel fishery" is the fishery that occurs off of the Federal TAC within State waters. It is different than the State-managed Pacific cod fishery which occurs exclusively in State waters and is managed by the Board of Fisheries. Currently, the State does not have a limited entry program, or quota-based program in place for harvests within State waters for groundfish and the parallel fishery is essentially managed as an open access fishery.

During the Federal fishery, the State traditionally opens state waters to allow access to vessels to fish off of the Federal quota inside state waters – the "parallel fishery." Opening state waters allows the effective harvesting of fishery resources because many fish stocks straddle State and Federal jurisdiction and in some cases a significant portion of the overall Federal TAC is harvested within State waters. Closing state waters during the Federal fishery would severely limit fishing opportunities to both Federal and State permitted vessels. **Attachment 1** summarizes the percentage of the total retained catch coming from the parallel fishery based on a summary of recent catch data compiled by the Alaska Department of Fish and Game (ADF&G) showing harvests of some key commercial species within the parallel fishery.<sup>1</sup>

### **Management of the Parallel Fishery and GOA Rationalization**

The State cannot require vessels fishing inside state waters during the Federal fishery to hold a Federal permit. However, the State can adopt regulations similar to those in place for the Federal fishery if those regulations are approved by the Board of Fisheries and meet State statute. The State does not have statutory authority to adopt some forms of IFQs that allocate harvests to individual persons based on historic harvests. Further, the use of some types of quota programs may conflict with the State Constitution. Currently, vessels are able to fish inside state waters during the parallel fishery without Federal licenses, although many boats that fish inside of 3 miles are Federally permitted for use in Federally-managed fisheries. If a rationalization program is adopted, the State would have to establish mechanisms to control harvests in the parallel fishery to prevent overharvests. In addition, if access to the parallel fishery is not controlled, entry into the parallel fishery could exacerbate the race for fish in State waters, while vessels fishing in the Federal fishery would be subject to the allocation under the rationalization program. The lack of effective controls on effort within the parallel fishery could undermine the goals of GOA rationalization, including improving safety and providing economic stability to communities and industry. At this time, it is not clear if all, or only some of the components of the GOA Rationalization alternatives being considered by the Council could be adopted by the State given the existing State law.

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<sup>1</sup> Note that parallel fisheries harvests include the harvest of all vessels inside of 3 miles, including Federally licensed vessels. These Federally licensed vessels also participate in the Federally managed fisheries outside of 3 miles.

## **June 2003 Council Action**

In June 2003, the Council adopted three options as possible approaches to the current management of the parallel fishery (Topic 2.2.3 on Page 7 of the Council's June 2003 Motion).

### **Option 1: Status Quo**

Status Quo -Federal TAC taken in Federal waters and in state waters, during a 'parallel' fishery, plus state-water fisheries exist for up to 25% of the TAC for Pacific cod.

Under this option, current management would continue. At first blush, this option would appear to be unworkable if rationalization of the GOA fisheries were undertaken because the TAC could not be managed under a share-based program for Federal participants, while State participants continue in a race for fish for the same Federal TAC.<sup>2</sup>

### **Option 2: Allocation to the State**

Direct allocation of portion of TAC to fisheries inside 3 nm. No 'parallel' fishery designation, harvest of remaining Federal TAC only occurs in Federal zone (3 – 200 nm); and Council allocates \_\_\_\_\_ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

The second option would directly allocate a portion of the Federal TAC to be managed by ADF&G within State waters. This mechanism is similar to that used in the State Water Pacific cod fishery. The motion indicates that the Council would be responsible for the allocation of some percentage of the TAC to be managed by the State. The percentage allocation to support State managed fisheries could also accommodate the existing State water Pacific cod fishery managed by ADF&G.

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<sup>2</sup> Although not explicitly stated in the Council motion, there are also State managed fisheries for pollock in Prince William Sound, and several sablefish fisheries that are managed within state waters. Management of blue and black rockfish also has been deferred to the State throughout both State and Federal waters.

The Council's motion indicates that the allocation to the State would be based on some percentage of the historical harvests within the parallel fishery relative to the total Federal TAC. Attachments 1 and 2 show historic landings in the parallel fisheries for several recent seasons.<sup>3</sup> The extent of the allocation to support State fisheries, however, will likely depend on several factors. For example, the allocations in the Federal rationalization program could credit all harvests of Federally permitted vessels (License Limitation Program licensed vessels) in both Federal and State waters. If these landings are credited in the Federal program, crediting them also in the State fishery allocation could dilute the interests of participants in the Federal fisheries.<sup>4</sup> Under this option, participants in the Federal program that fished exclusively within State waters in the past could receive an allocation for their catch history that could be used only in Federal waters under the new program.

Participants in the rationalized fishery can operate more flexibly and efficiently. If participants in the rationalized Federal fishery are also allowed in the State fisheries, they could have a competitive advantage over vessels that are limited to participation in the State fishery. Typically, participants in a rationalized fishery are limited to their historic participation in other fisheries, to prevent unfair competition. State regulations to limit entry in a fishery require following a regulatory procedure administered by the CFEC. This process takes considerable time and may not be completed for several years. Therefore, the State may have difficulty limiting entry to the State fisheries beyond area, gear, and time restrictions established by the Board of Fisheries. The State may also have difficulty directly prohibiting vessels that participate in a rationalized Federal fishery from also participating in the State-managed fishery. However, the ability of the Council to adopt a provision that could reduce competition in State fisheries from participants in the Federal rationalization program could also be explored.

#### Biological Issues:

Establishing an allocation to the State requires fixing some percentage allocation of the resource to a limited geographic region. Currently, the harvests between State and Federal waters is not fixed and the fishery is prosecuted based on the location of the fish, which can change substantially over the course of a year or between years. An average of historical harvest rates may mitigate some of the variability in stock abundance that can occur. Fixing this allocation could modify harvest rates, bycatch species, and rates in various fisheries. Without more extensive analysis, it is unclear whether a cap or reallocation would also have an economic effect on the overall productivity of vessels.

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<sup>3</sup>The information provided in Attachment 1 are based on data compiled by ADF&G, and could differ from data sources currently used by the Council in their analytical process. Because of the reporting methods used, data managers may make differing assumptions about the amount of harvest coming from within State waters. Staff recommends using a single data source to reduce any potential confusion if the Council were to consider a possible allocation mechanism. Attachment 1 compares the retained harvest data provided by ADF&G to the total retained harvest by area and for the each of the fisheries analyzed by NMFS. Some discrepancies may exist between these data sources, but these data provide an indication of the relative range of parallel fishery harvests for each of the fisheries reviewed by ADF&G. Additional analysis would refine these comparisons. Attachment 1 compares retained harvests in the parallel fishery to total retained harvests in the Federal and parallel fishery combined since several of the fisheries are not harvested up to their TAC (e.g., arrowtooth flounder) for a variety of reasons.

<sup>4</sup> In addition, an option under consideration would allocate harvest shares for all landings in the parallel fisheries (including vessels without Federal permits). Allocation of Federal program harvest shares to these vessels and crediting the same catch to a State water fishery could also dilute interests of participants in both fisheries.

#### Data Issues:

The reporting methods used on the State of Alaska Fish Tickets require the reporting of the State statistical area in which the harvest occurred. These data are self-reported and based on the best estimates of the vessel operator. These estimates will vary among operator and may be confounded by additional factors, in particular, trawl vessels may transit through both Federal and State waters and multiple statistical areas during a single tow, or within a trip and the statistical area reported by the operator may represent only the location where the net was first placed in the water, or the location where haul back occurred, or an estimate of the amount of harvest within each area. Presumably, these factors would be considered by the Council if they were to consider a direct allocation to be managed by ADF&G.

#### Bycatch Management of Prohibited Species:

An additional factor for consideration is that under the Council's motion, only some species would be directly allocated to the State. However, in some of these fisheries, depending on the type of gear deployed, there may be bycatch of prohibited species – species that cannot be retained – that are not specifically allocated under the Council's motion. As an example, in the Pacific cod hook and line fishery there can be significant bycatch of halibut. Under the Federally managed fisheries, there are trimester allocations of halibut bycatch mortality which can be harvested in the hook and line fisheries. Once these allocations are taken, the fishery is closed. Moreover, vessels which are participating exclusively in the parallel fishery are not required to adhere to NMFS regulations regarding observers and other reporting requirements. This could affect estimates of bycatch of prohibited species. As an example, estimates of halibut bycatch mortality and discards are obtained through observer data in the Federal fishery. Without observer data within the parallel fishery halibut bycatch mortality would have to be estimated using Federal observer data, or by establishing fixed halibut mortality rates for each of the parallel fisheries. Generally, NMFS would most likely have to modify the existing Federal observer program in the GOA under the rationalization alternatives currently under consideration. Most likely, this would include improving monitoring of individual catch and bycatch. The observer costs will likely preclude using observers for halibut bycatch monitoring on all vessels. NMFS and the Council will be exploring some alternative approaches to halibut bycatch management. Similarly, the State may have to reconsider its approaches to bycatch monitoring within the parallel fishery to ensure accurate and consistent accounting.

#### Incidental Catch of Groundfish Species:

Based on the analysis provided in Attachments 1 & 2 many Federally managed groundfish fisheries have some component, some rather limited, of their harvests occurring within the parallel fishery. If the goal of this option is to establish a distinct and separate management system for State waters then it may be necessary for the Council to allocate incidentally caught groundfish species for management by the State. Maintaining management of incidental catch with NMFS while a subset of groundfish target species are managed by the State would be cumbersome and would likely result in many of the same problems currently experienced under the existing management system. Without an allocation of incidental catch to a State managed fishery, NMFS would have to monitor a fishery occurring exclusively within State waters.

Without directly allocating incidental catch and deferring its management to the State, vessels would not be limited by separate incidental catch limits within State waters. This could prove to be most problematic for a number of rockfish species that occur in nearshore areas and which have relatively limited TACs. As an example, the Shortraker/Rougheye (SR/RE) complex occurs in relatively nearshore waters. If SR/RE was harvested incidentally at a rate much higher than that in the Federal fishery resulting in harvests of most of the TAC for SR/RE, Federal fishery managers could be forced to compensate for this harvest by limiting or closing rationalized fisheries with significant components of SR/RE incidental catch. These could include the Pacific cod hook and line, or certain rockfish trawl fisheries.

### Open Access Implications:

An additional management concern that could result from this option is the need for additional coordination between the State and NMFS to ensure that the overall harvest of groundfish fisheries are maintained within the existing TAC. Presumably, under a direct allocation to the State, the Federal TAC would be adjusted to accommodate any allocations that may be made to the State. NMFS and the State will have to establish a protocol to ensure adequate monitoring and enforcement mechanisms are in place. What is not clear from the Council's proposal is the effect on one fishery if the other fishery exceeds its TAC (Federal) or Guideline Harvest Level (State). In other words, would overages within one jurisdiction be compensated by a reduced TAC or GHF in that fishery in that jurisdiction in subsequent years?

### Dusky Rockfish:

The Council's motion also notes that both light and dark dusky rockfish would be allocated to the State for management. Currently, light and dark dusky rockfish are managed as a single species within the Pelagic Shelf Rockfish complex along with widow and yellowtail rockfish. Existing catch data do not distinguish between these two varieties, or subspecies, of dusky rockfish and this factor would need to be considered by the stock assessment scientists, GOA groundfish plan team, and the SSC as well as the Council before any allocation decisions are made. Historically, very limited harvests of these species have occurred within the parallel fishery (see Attachment 1 for additional information).

Rationalization and State Waters: This option would require the Board to adopt new regulations and for ADF&G to adopt new monitoring and enforcement responsibilities. A key component of monitoring efforts would be ensuring that harvests within State and Federal waters are clearly delineated, particularly if both fisheries were prosecuted simultaneously. If a direct allocation were made by the Council and management of this portion of the TAC were undertaken by ADF&G within State waters, the State would continue to be limited in its ability to use share-based management within State waters without additional legislative authority. Presumably, any fishery prosecuted and managed exclusively within State waters would continue to be subject to the existing State management structure for establishing a limited entry program through the Board and Commercial Fishery Entry Commission (CFEC) process.

Depending on the size of the quota and the harvest rate, a State managed groundfish fishery could require additional monitoring and enforcement. As an example, in most of the State managed Pacific cod fisheries season lengths have decreased since their implementation in 1997. The more rapid the rate of harvest and the smaller the allocation, the greater the need for timely data collection, reporting, and management actions.

### **Option 3: Limit within State Waters**

Parallel fishery on a fixed percentage (\_\_\_\_ %) allocation of the Federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

This option would establish a limit, or cap, on the total amount of TAC that could be harvested within State waters during the Federal fishery. This option would maintain the existing management structure, and the Board would retain its authority to establish additional management measures for the parallel fishery. This

option would differ little from the existing management other than limiting the amount of harvest that could come from State waters for a number of species, or possibly all species if Suboption 3 were chosen. The Council's motion does not clarify whether NMFS or ADF&G would be responsible for monitoring and enforcing these harvest limits.

In determining the percentage of the TAC that may be harvested from State waters, the Council will be confronted with many of the same issues that arise under Option 2. For example, if the Council allocates shares in the Federal program based on harvests from State waters (by either Federally or State permitted vessels) these harvests might not also be allocated to the State managed fishery. The division of TAC between these fisheries should depend on several factors, including the scope of allocations under the rationalization program.

Data Issues: Issues concerning establishing an allocation, or limit, within the parallel fishery would be similar to those discussed in the first option. An additional management issue under this option would be the catch accounting requirements that would be imposed by monitoring catches from Federal and State waters for a fishery occurring concurrently. NMFS and ADF&G would have to receive information that would allow them to determine what percentage of the total harvests are made from within State waters during the seasons so that the parallel fishery could be closed once its allocation is reached. This could prove particularly difficult in the situation where vessels transit between State and Federal waters during fishing activities. Catch accounting would need to apportion catches between State and Federal waters in order to ensure the parallel fishery allocation was not exceeded. Given the nature of the GOA fisheries, many of the vessels are unobserved and existing data sources such as State Fish Tickets do not provide harvest data on a timely basis. Effective monitoring of an allocation could require new data collection mechanisms that could account for catch and report that catch to both NMFS and ADF&G to ensure harvests are kept within the allocation to the parallel fishery.

Bycatch and Incidental Catch Issues: Under this option, NMFS would maintain the management of prohibited species and incidental catch in the groundfish fisheries. It is not clear from the Council motion whether there would be a separate bycatch limit for prohibited species established for the parallel fishery or if bycatch would be managed collectively for harvests occurring in both State and Federal waters. If there were not a separate bycatch limit for the parallel fishery, bycatch allowances for a given species and/or gear group could be harvested in one jurisdiction and affect management in another. As an example, if an allocation were established for the Western Gulf Pacific cod hook and line parallel fishery those vessels could potentially harvest the entire trimester allocation of halibut bycatch mortality (for that fishery and gear type) for both the parallel State and the Federal fishery. In that case, Federal managers would be obligated to close fishing to vessels fishing in both State and Federal waters. A similar condition could exist for the incidental harvest of non-target species.

Rationalization and State Waters: Under this option, the number of vessels that could participate in the parallel fishery would not be limited, although the Board could adopt time, area, and gear restrictions that could limit the type of vessels and indirectly the number of vessels that could fish within the parallel fishery. If NMFS were to maintain monitoring and enforcement responsibilities for the parallel portion of the fishery, then there would need to be adequate monitoring to ensure that the parallel fishery harvest were not exceeded. This could require additional measures, including expanding the use of the Vessel Monitoring System, or adding observer coverage. This option would likely require close communication between NMFS and ADF&G to establish openings and closures in the parallel fishery.

This option would not result in the rationalization of the parallel fishery. At best, managers could control

effort through indirect controls such as gear and vessel size restrictions.

### **Summary of Issues**

Allocations to State and Federal fisheries and participation of vessels in both State and Federal waters needs to be considered in determining any allocations to avoid potential “double counting” and the dilution of catch history.

Direct allocations may be required for all species, including prohibited species, to ensure that there is adequate amounts of these species for incidental catch and to reduce the potential "race for bycatch." if these species are shared among State and Federal jurisdictions.

Depending on the size of the TAC or GHL, management may require additional monitoring and enforcement to ensure that the harvests are maintained within TAC/ABC levels.

**Attachment 1:** Percentage of total retained catch harvested within the Parallel fishery for select fisheries, 1995-2001.

**Attachment 1: Percentage of Total Retained Catch Harvested Within the Parallel Fishery**

<b>Arrowtooth Flounder</b>		<b>Area</b>			<b>Pelagic Shelf Rockfish</b>		<b>Area</b>	
	<b>610</b>	<b>620</b>	<b>630</b>			<b>610</b>	<b>620</b>	<b>630</b>
1995	23%	18%	8%		1995(*)	59%		7%
1996	7%	9%	4%		1996(*)	74%	45%	9%
1997	8%	47%	4%		1997(*)		4%	
1998	1%	22%	8%		1998(*)		7%	
1999	1%	4%	4%		1999			
2000	3%	2%	1%		2000		12%	
2001	7%	20%	9%		2001		1%	
<b>Deep Water Flatfish</b>		<b>Area</b>					<b>Area</b>	
	<b>610</b>	<b>620</b>	<b>630</b>		<b>Pollock</b>	<b>610</b>	<b>620</b>	<b>630</b>
1995	1%	1%	1%		1995	36%	22%	25%
1996		1%	1%		1996	61%	43%	36%
1997		2%			1997	35%	44%	23%
1998		3%			1998	61%	51%	16%
1999	6%				1999	55%	25%	15%
2000					2000	7%	7%	8%
2001					2001	72%	18%	9%
<b>Flathead Sole</b>		<b>Area</b>			<b>Pacific Ocean Perch</b>		<b>Area</b>	
	<b>610</b>	<b>620</b>	<b>630</b>			<b>610</b>	<b>620</b>	<b>630</b>
1995	2%	11%	11%		1995			
1996	1%	20%	6%		1996			
1997	2%	27%	7%		1997			
1998	1%	45%	8%		1998			
1999	5%	10%	3%		1999			
2000	31%	5%			2000			
2001	20%	13%	3%		2001			
<b>Northern Rockfish</b>		<b>Area</b>					<b>Area</b>	
	<b>610</b>	<b>620</b>	<b>630</b>		<b>Rex Sole</b>	<b>610</b>	<b>620</b>	<b>630</b>
1995					1995			
1996					1996			
1997		1%			1997			1%
1998					1998		1%	
1999					1999			
2000					2000			
2001					2001			
<b>Pacific Cod</b>		<b>Area</b>						
	<b>610</b>	<b>620</b>	<b>630</b>					
1995	19%	22%	17%					
1996	31%	13%	14%					
1997	16%	18%	11%					
1998	20%	18%	6%					
1999	17%	24%	9%					
2000	26%	20%	11%					
2001	18%	17%	8%					



<b>Attachment 1: (Con't)</b>
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**Note:** Percentages are based on parallel harvest data compiled by ADF&G compared to total retained catch provided by NMFS, Alaska Region. Some discrepancies may exist between these data sources. These data are intended to provide an indication of the likely range of harvests within the parallel fishery.

Black cells indicate that less than 1% of the retained catch came from the parallel fishery in that year within that management area.

(\*) Blue and Black Rockfish were managed as part of the Pelagic Shelf Rockfish complex until 1998 and harvest data prior to 1999 do not reflect the species currently managed in this complex. The percentage of harvest within the parallel fishery would include blue and black rockfish prior to 1999.